

REMARKS

The Official Action mailed March 3, 2011, has been received and its contents carefully noted. This response is filed within three months of the mailing date of the Official Action and therefore is believed to be timely without extension of time. Filed concurrently herewith is a *Request for Continued Examination*. Accordingly, the Applicant respectfully submits that this response is being timely filed.

The Applicant notes with appreciation the consideration of the Information Disclosure Statements filed on September 27, 2006; January 15, 2009; February 12, 2010; and January 28, 2011.

Claims 1-22 were pending in the present application prior to the above amendment. Claims 9, 10 and 13 have been amended to better recite the features of the present invention and new claims 23-27 have been added to recite additional protection to which the Applicant is entitled. Accordingly, claims 1-27 are now pending in the present application, of which claims 1, 6, 9, 10, and 13 are independent. For the reasons set forth in detail below, all claims are believed to be in condition for allowance. Favorable reconsideration is requested.

Paragraph 2 of the Official Action rejects claims 1-8, 20 and 21 as obvious based on the combination of U.S. Publication No. 2004/0082296 to Twitchell, Jr. and U.S. Publication No. 2005/0001718 to Asauchi. Paragraph 3 of the Official Action rejects claims 9, 11 and 13-19 as obvious based on the combination of Twitchell, Jr., U.S. Publication No. 2007/0176773 to Smolander and U.S. Publication No. 2004/0164302 to Arai. Paragraph 4 of the Official Action rejects claims 10-12 and 22 as obvious based on the combination of Twitchell, Jr. and Arai. The Applicant respectfully traverses the rejections because the Official Action has not made a *prima facie* case of obviousness and/or that a *prima facie* case of obviousness cannot be maintained against the independent claims of the present application, as amended.

As stated in MPEP §§ 2142-2144.04, to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some reason, either

in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some reason to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." In re Kotzab, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also In re Fine, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); In re Jones, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992).

The Official Action fails to provide a sufficient showing that one of ordinary skill in the art would have been motivated to modify or combine the reference teachings to realize the present invention and therefore a *prima facie* case of obviousness cannot be maintained. In the response to arguments section in the Office Action, it is alleged that there is motivation to combine Asauchi, Arai, and Smolander with Twitchell, Jr., since "Asauchi, Arai et al., and Smolander et al. are in the same field of endeavor, which provides non-contact communication" and throughout the Official Action other, general, assertions of alleged motivation are provided. However, in each case, such general motivation would not have predictably led one of ordinary skill in the art to combine the references in the manner asserted and would not have provided to the person of ordinary skill any reasonable expectation of success in making the alleged combination.

In particular, with respect to claims 1, 6 and 10, the Official Action alleges that the gateway (MLG 180) of Twitchell, Jr. corresponds to the claimed second resonance circuit, and that it would have been obvious to modify or replace gateway (MLG 180) of Twitchell with the receiver transmitter 30 of Asauchi "for the benefit of providing non-

contact communication circuit details.” However, Twitchell discloses that the gateway (MLG 180) includes a GPS receiver and a cellular or satellite transmitter 186 (see paragraph [0053]). On the other hand, the receiver transmitter 30 of Asauchi is disclosed as including an IF circuit and an antenna and does not include any disclosure of high performance components useful as a gateway for a network interface such as gateway (MLG 180). Furthermore, even if one were to combine Asauchi’s device with Twitchell’s system, one of ordinary skill in the art is not believed to have had a reasonable expectation that such an alleged combination would predictably work for its intended purpose. That is, absent the disclosed GPS receiver and cellular or satellite transmitter, the device of Twitchell would not operate as intended. For at least these reasons, an insufficient rationale has been provided that would have predictably led one of ordinary skill in the art to combine Asauchi with Twitchell and a *prima facie* case of obviousness cannot be maintained.

With respect to claim 9 and 13, the Official Action alleges that the gateway (MLG 180) or a wireless reader tag (LPRF 110) corresponds to the claimed resonance circuit, and the gateway or the wireless reader tag is switchable to sensor 22 of Smolander. However, these references are not believed to be combinable for the following reasons.

Regarding the gateway 180 of Twitchell, Jr., this is taught to include a GPS receiver and a cellular or satellite transmitter 186 (paragraph [0053]). Insufficient rationale has been provided that would have led one of ordinary skill in the art to have predictably combined Twitchell, Jr. as alleged.

Regarding the wireless reader tag 110, paragraph [0028] discloses that the “Wireless Reader Tag itself preferable is active... An active transceiver receives and transmits **using internally stored energy, such as a battery.**” To the contrary, reference numeral 22 of Smolander is a sensor that does not include or use internally stored energy (battery). In view of the above, one of ordinary skill in the art would not have been predictably led to combine Smolander with Twitchell, Jr., as alleged.

Thus, it is not believed that the Official Action provides sufficient rationale to make the alleged combination based on a general allegation that the devices are arguably in a same field of endeavor, and has not demonstrated that there was a reasonable expectation of success.

Because Twitchell, Jr. is not believed combinable with Asauchi, Smolander and/or Arai, a *prima facie* case of obviousness cannot be maintained with respect to independent claims 1, 6, 9, 10 and 13. Therefore, Applicant believes the rejections of claims 1, 6, 9, 10 and 13 and claims dependent therefrom are not proper.


Accordingly, reconsideration and withdrawal of the rejections under 35 U.S.C. § 103(a) are in order and respectfully requested.

New claims 23-27 have been added to recite additional protection to which the Applicant is entitled. For the reasons stated above and already of record, and for the additional features recited therein, the Applicant respectfully submits that new claims 23-27 are in condition for allowance.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact the undersigned at the telephone number listed below.

The Commissioner is hereby authorized to charge fees under 37 C.F.R. §§ 1.16, 1.17, 1.20(a), 1.20(b), 1.20(c), and 1.20(d) (except the Issue Fee) which may be required now or hereafter, or credit any overpayment to Deposit Account No. 50-2280.

Respectfully submitted,



Eric J. Robinson
Reg. No. 38,285

Robinson Intellectual Property Law Office, P.C.
3975 Fair Ridge Drive,
Suite 20 North
Fairfax, Virginia 22033
(571) 434-6789